

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Case No. 5:17-CV-00066-RLV-DSC**

VENSON M. SHAW and STEVEN M. SHAW,

Plaintiffs,

v.

APPLE, INC., SONY ELECTRONICS INC.
and SONY MOBILE COMMUNICATIONS
(USA), INC.

Defendants.

ORDER

THIS MATTER is before the Court on Defendant' "Motion to Strike ... and ... Motion to Dismiss ..." (document #41) filed August 18, 2017, and Plaintiffs' "Consent Motion for Leave to Amend Complaint" (document #42) filed August 31, 2017. This matter was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1).

Rule 15 of the Federal Rules of Civil Procedure governs amendments to pleadings. Rule 15(a)(1) grants a party the right to "amend its pleading once as a matter of course," if done within twenty-one (21) days after serving the pleading, Fed. R. Civ. P. 15(a)(1)(A), or "if the pleading is one to which a responsive pleading is required," a party may amend once as a matter of course, provided that it does so within "21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Fed. R. Civ. P. 15(a)(1)(B). The Rule further provides that leave to amend shall be freely given "when justice so requires." Id.

For the reasons stated therein, Plaintiffs' "Consent Motion for Leave to Amend Complaint" (document #42) will be granted.

It is well settled that an amended pleading supersedes the original pleading, and that motions directed at superseded pleadings are to be denied as moot. Young v. City of Mount Ranier,

238 F. 3d 567, 573 (4th Cir. 2001) (amended pleading renders original pleading of no effect); Turner v. Kight, 192 F. Supp. 2d 391, 397 (D. Md. 2002) (denying as moot motion to dismiss original complaint on grounds that amended complaint superseded original complaint).

IT IS THEREFORE ORDERED that:

1. Defendants' "Motion to Strike ... and ... Motion to Dismiss ..." (document #41) is administratively **DENIED** as moot without prejudice.
2. Plaintiffs' "Consent Motion for Leave to Amend Complaint" (document #42) is **GRANTED**. Plaintiffs shall file their Second Amended Complaint within five (5) days of this Order.
3. The Clerk is directed to send copies of this Order to counsel for the parties, including but not limited to moving counsel; and to the Honorable Richard L. Voorhees.

SO ORDERED.

Signed: August 31, 2017



David S. Cayer
United States Magistrate Judge

